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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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8 UNITED STATES OF AMERICA

9 Plaintiff,

Case No. 2:04-CR-262 JCM (PAL)

ORDER

10 v.

11 DAVID KENT FITCH,

12 Defendant.

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14 Presently before the court is David Kent Fitch’s motion for relief, wherein he invokes criminal  
15 statute 18 U.S.C. § 4, misprision of a felony, to inform the court that “[Fitch] ha[s] knowledge of  
16 very serious crimes that have been committed by DOJ employees” and to request that this court  
17 “contact the OIG-DOJ and request that they send an agent to see [Fitch] immediately (in private)  
18 in regards to a serious assault and a conspiracy to murder.” (ECF No. 373 at 1). Fitch states his  
19 motivation for contacting the court is that he believes “the OIG will pay attention to [a] federal  
20 judge.” (*Id.* at 1).

21 Title 18 U.S.C. § 4 provides:

22 Whoever, having knowledge of the actual commission of a felony cognizable by a  
23 court of the United States, conceals and does not as soon as possible make known  
24 the same to some judge or other person in civil or military authority under the  
United States, shall be fined under this title or imprisoned not more than three years,  
or both.

25 This statute is not a basis for private suit, *Massad v. Greaves*, 554 F. Supp. 2d 163, 167 (D.  
26 Conn. 2008), and “[a] judge is not a prosecutor.” *United States v. Zolin*, 842 F.2d 1135, 1137 (9th  
27 Cir. 1988). The court is particularly concerned with this latter point. *See In re Richardson*, 247  
28 N.Y. 401, 411–12 (N.Y. 1928) (Cardozo, C.J.) (“Centuries of common-law tradition warn us with

1 echoing impressiveness that [acting as an investigating instrumentality or as a prosecutor] is not a  
2 judge's work. We should be sorry to weaken that tradition by any judgment of this court.”).

3 Therefore, this court cannot assist Fitch in the manner he wishes.

4 Accordingly,

5 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that the instant motion (ECF  
6 No. 373) be, and the same hereby is, DENIED.

7 DATED July 31, 2017.

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11 UNITED STATES DISTRICT JUDGE  
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